

Remarks

Claim Amendments

Independent claims 1 and 17 have been amended to recite the beverage produced by the method as being "light stable". This feature is described at page 22, lines 1-11 of the specification.

35 U.S.C. § 103(a) Rejection

Claims 1-7 and 17 have been rejected under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 5,120,520 to Owades ("Owades") in view of U.S. Patent No. 1,464,520 to Von Horst ("Von Horst") or Belgian Pat. No. 197,012 ("ANH"). (It is noted that the Office Action listed an incorrect patent number for Owades.)

Looking first at amended independent claims 1 and 17, it can be seen that the beverage produced by the method is now recited as being "light stable". This is very advantageous in view of the disadvantages of beverages which are not light stable (see page 2, line 24 to page 3, line 6 of the specification).

Turning now to Owades, there is described the use of spent hops for making a non-fermented malt beverage. However, the Office Action acknowledges that Owades does not teach using a hop extract. Furthermore, Owades does not teach fermentation as claimed in the present invention. Also, Owades does not teach that the hop solids should have no more than .5% w/w alpha acids as claimed.

Referring now to Von Horst, the water extract along with the other disclosed extracts (which include soft resins like alpha acids) are mixed together in various quantities and then added to the wort (see page 1, lines 81-85 of Von Horst). Thus, von Horst does not disclose or even suggest using solely an aqueous extract of hop solids.

As such, the Von Horst mixtures will contain alpha acids which produce a light unstable beer. However, the claimed methods of amended independent claims 1 and 17 are advantageously capable of producing a light stable beverage. Accordingly, Applicants respectfully submit that any combination of Owades and Von Horst fails to teach all of the limitations of amended independent claim 1 (and claims 2-7 that depend thereon) and amended independent claim 17.

Turning now to ANH, the hot water extracts disclosed therein contain substantial amounts of alpha acids in light of the statement at page 4 of the translation that "resinous extracts contain . . . 25 to 45% alpha acids . . . [and t]he composite extracts [resinous and tannin extracts] are standardized at 15-30% alpha acids [and] . . . up to now, for this purpose, only hot water extracts have been used". Thus, the ANH water extracts are not capable of producing a light stable beverage as in amended claims 1 and 17 due to the presence of alpha acids. Further, with respect to the hot water extracts disclosed in ANH, the disclosure is non-enabling because the starting material for the hot water extraction is not clearly disclosed. For example, is it whole hops or some other hop constituent? In any case, the hot water extract clearly contains substantial alpha acids which would lead to a light unstable beverage which amended independent claims 1 and 17 specifically exclude. Further, the product of ANH is directed to combining the resinous and tannin extracts with spent hops powder. The claimed invention excludes additional constituents such as spent hops powder. Accordingly, Applicants respectfully submit that any combination of Owades and ANH fails to teach all of the limitations of amended independent claim 1 (and claims 2-7 that depend thereon) and amended independent claim 17.

Therefore, it is respectfully submitted that all of the limitations of amended independent claim 1 (and claims 2-7 that depend thereon) and amended independent claim 17 are not shown or suggested in any combination of Owades, Von Horst and ANH.

Conclusion

Therefore, it is submitted that the application is in condition for allowance. Favorable reconsideration is respectfully requested.

No fees are believed to be needed for this amendment. However, if additional fees are needed, please charge them to Deposit Account No. 17-0055.

Respectfully submitted,

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By: 
Richard T. Roche
Registration No. 38,599
Quarles and Brady LLP
411 East Wisconsin Ave.
Milwaukee, WI 53202
(414) 277-5805

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